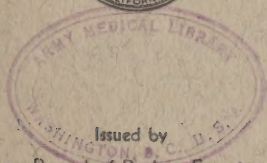


STATE OF CALIFORNIA  
DEPARTMENT OF PROFESSIONAL AND VOCATIONAL STANDARDS  
STATE BOARD OF BARBER EXAMINERS

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# LAWS

GOVERNING THE  
PRACTICE OF  
BARBERING  
IN CALIFORNIA



State Board of Barber Examiners  
528 Business and Professions Bldg.  
1020 N Street  
Sacramento

*printed in* CALIFORNIA STATE PRINTING OFFICE

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DEPARTMENT OF PROFESSIONAL AND VOCATIONAL STANDARDS  
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IN CALIFORNIA. Laws,  
Statutes, etc.



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Issued by

State Board of Barber Examiners

528 Business and Professions Bldg.

1020 N Street

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## CALIFORNIA BARBER LAW

An act to add Chapter 6, comprising Sections 6500 to 6630, inclusive, to Division 3 and to add Section 30014 to Division 30 of the Business and Professions Code, relating to the practice of barbering and repealing acts and parts of acts specified herein, and amended Chapters 422-822-888, Statutes of 1945.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 6, comprising Sections 6500 to 6630, inclusive, is hereby added to Division 3 of the Business and Professions Code, to read as follows:

### CHAPTER 6. BARBERS

#### Article 1. Administration

6500. There is in the Department of Professional and Vocational Standards a State Board of Barber Examiners, which consists of three members appointed by the Governor.

6501. Each member shall be a practical barber who has engaged in the practice of barbering in this State for at least five years immediately prior to his appointment. One member of the board shall be a journeyman barber and one member shall be a barber employing one or more journeymen barbers.

6502. Members of the board shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors.

The terms of the members of the board in office when this chapter takes effect shall expire as follows: One member, January 15, 1941; one member, January 15, 1942; one member, January 15,



1943. The terms shall expire in the same relative order as to each member as the term for which he holds office before this chapter takes effect.

Vacancies shall be filled by appointment for the unexpired term.

The Governor may remove a member for cause.

6503. The board shall elect a president and secretary. The secretary may, or may not be a member of the board.

6504. The secretary shall keep a record of all proceedings of the board.

The secretary shall give to the State a bond in the sum of five thousand dollars (\$5,000) with sufficient sureties, to be approved by the board, for the faithful performance of his duties.

6505. A majority of the board in meeting duly assembled may perform and exercise all the duties and powers devolving upon the board.

6506. The board shall be furnished with suitable quarters.

6507. The board shall adopt and use a common seal for the authentication of its orders and records.

6508. The board may make rules and regulations and also prescribe sanitary requirements in aid or furtherance of the provisions of this chapter in addition to those prescribed by law.

6509. Any member of the board or its agents or assistants may enter into and inspect any barber shop or college at any time during business hours.

6510. The board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension and revocation of certificates or registration. This record shall also contain the name and mailing address of each registered barber and registered apprentice and the date and number of

his certification of registration. This record shall be open to public inspection at all reasonable times.

6511. The board shall have authority to employ such inspectors, clerks and other assistance as it may deem necessary to carry out the provisions of this chapter.

6512. Each member of the board shall receive a compensation of four thousand two hundred dollars (\$4,200) per annum and shall be reimbursed for his necessary traveling expenses incurred in the discharge of his duty. These salaries and expenses shall be paid only from the fund created by fees collected in the administration of this chapter.

6513. The board shall report annually to the Governor a full statement of its receipts and expenditures and also a full statement of its work during the year, together with such recommendation as it may deem expedient.

## **Article 2. *Application of Chapter***

6520. The practice of barbering embraces any of or any combination of the following practices for hire or reward:

- (a) Shaving or trimming the beard or cutting the hair.
- (b) Giving facial and scalp massages or treatments with oils, creams, lotions or other preparations either by hand or mechanical appliances.
- (c) Singeing, shampooing, arranging, dressing, curling, waving or dyeing the hair or applying hair tonics, but waving does not include permanent waving.
- (d) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face or neck.

6521. As used in this chapter, barber shop embraces any establishment or place of business wherein the practice of barbering is engaged in or carried on.

6522. The provisions of this chapter do not apply to:

- (a) Persons authorized by the law of this State to practice medicine and surgery or osteopathy or chiropractic or persons holding a drugless practitioner certificate under the laws of this State.
- (b) Commissioned medical or surgical officers of United States Army, Navy or Marine hospital service.
- (c) Registered nurses.
- (d) Persons practicing beauty culture.

However, the provisions of this section do not authorize any of the persons exempted to shave or trim the beard, or cut the hair of any person for cosmetic purposes except that persons included in subdivision (d) may cut the hair.

6523. It is unlawful for any person to engage in the practice of, or attempt to practice, barbering without a certificate of registration as a registered barber issued by the board.

6524. It is unlawful for any person to serve as an apprentice under a registered barber without a certificate of registration as a registered apprentice issued by the board.

6525. It is unlawful for any person, firm or corporation to operate a barber shop unless such person, firm, or corporation shall at all times display a certificate to operate a barber shop issued by the board, and unless such shop shall at all times be under the direct supervision and management of a registered barber.

6526. It is unlawful for any person, firm, or corporation to hire, employ, aid or abet any person



to engage in the practice of barbering, unless such person holds a valid, unexpired, and unrevoked certificate of registration to practice barbering or a certificate of registration as a registered apprentice, issued by the board.

### **Article 3. Barber Colleges**

6534. As used in this chapter, college includes school of barbering, college of barbering, barber school, barber college and any other place or institution of instruction training persons to engage in the practice of barbering.

6535. No college of barbering shall be approved by the board unless it requires as a prerequisite to admission thereto graduation from an eighth grade grammar school, or its equivalent as determined by an examination conducted by the board, and unless it requires as a prerequisite to graduation a course of instruction of not less than 1000 hours to be completed within six months of not more than eight hours in any one working day.

This course of instruction shall include the following subjects: Scientific fundamentals of barbering, hygiene, histology of the hair, skin and nails, structure of the head, face and neck, elementary chemistry relating to sterilization and antiseptics, massaging and manipulating the muscles of scalp, face or neck, haircutting, shaving and arranging, dressing, coloring, bleaching and tinting the hair.

6536. No college shall enroll or admit any student thereto unless the student prepares in duplicate a duly verified application. The application shall be in the form and contain the matters the board prescribes and shall be obtained by the student or the college from the board.

One copy of the application shall be retained by the college enrolling or admitting the student and the other copy shall be filed by the college with the board.

6537. No college shall enroll or admit any student in a post-graduate course thereof, where the post-graduate course is for the purpose of qualifying persons to pass the examination conducted by the board to determine fitness to practice barbering, unless the student prepares, in duplicate, a verified application, obtained by the student or the college from the board, showing that there has been a compliance with each of the following:

(a) The applicant has graduated from an eighth grade grammar school or has an equivalent education as theretofore determined by an examination conducted by the board.

(b) The applicant either:

(1) Has graduated from a college approved by the board.

(2) Holds a valid, unexpired and uncanceled certificate of registration as a registered apprentice.

(3) Proves by sworn affidavits that he has practiced as a barber in another State or country for at least two years immediately prior to making the application.

One copy of the application shall be retained by the college admitting or enrolling the student and the other shall be filed by the college with the board.

6538. Nothing in this article limits or modifies the provisions of Section 6545 of this chapter.

#### **Article 4. *Licensing***

6545. Any person is qualified to receive a certificate of registration to practice barbering if he complies with each of the following:

(a) He is qualified under the provisions of Section 6546 of this chapter.

- (b) He is at least 18 years of age.
- (c) He is of good moral character and temperate habits.
- (d) He has practiced as a registered apprentice for a period of 18 months under the immediate personal supervision and employment of a registered barber.
- (e) He has passed a satisfactory examination conducted by the board to determine his fitness to practice barbering.

An applicant for a certificate of registration to practice as a registered barber who fails to pass a satisfactory examination conducted by the board, shall continue to practice as an apprentice for an additional six months under the immediate personal supervision and employment of a registered barber, before he is again entitled to take the examination.

6546. Any person is qualified to receive a certificate of registration as a registered apprentice if he complies with each of the following:

- (a) He has a diploma showing graduation from an eighth grade grammar school, or an equivalent education, as determined by an examination conducted by the board.
- (b) He is at least 16½ years of age.
- (c) He is of good moral character and temperate habits.
- (d) He has graduated from a college approved by the board.
- (e) He has passed a satisfactory examination conducted by the board to determine his fitness to practice as a registered apprentice.

Any applicant for a certificate of registration to practice as an apprentice who fails to pass a satisfactory examination shall complete a further course of study of not less than 500 hours to be completed within three months of not more than

eight hours in any one working day, in a college approved by the board.

6547. Each applicant shall file a verified application for an examination before the board. The application shall be in the form and shall contain the matters required by the board. Each application shall be accompanied by two 5" x 3" signed photographs and the fees provided by law.

6548. Not less than four times each year at the times and places it determines, the board shall conduct examinations to ascertain the educational qualifications of each of the following:

- (a) Applicants for certificates of registration to practice as registered barbers.
- (b) Applicants for certificates of registration to practice as registered apprentices.
- (c) Applicants to enter colleges.

The examination of applicants for certificates of registration as registered barbers and as registered apprentices shall include both a practical demonstration and a written and oral test and shall embrace the subjects usually taught in colleges of barbering approved by the board.

6549. Certificates of registered barber or of registered apprentice shall be issued by the board to any applicant who satisfactorily passes an examination making an average grade of not less than 75 per cent, and who possesses the other qualifications required by law.

A certificate to conduct a barber shop shall be issued to any owner of a barber shop upon receipt by the board of an application accompanied by the required fee.

6550. No registered apprentice may independently practice barbering, but he may as an apprentice do any or all of the acts constituting the practice of barbering under the immediate per-

sonal supervision and employment of a registered barber.

Each shop may employ one apprentice and shops employing more than three registered barbers may employ one additional apprentice for each two registered barbers after the first two. Apprentices may not be employed otherwise than to the extent provided in this section.

*The people of the State of California do enact as follows:*

SECTION 1. In enacting this statute the Legislature finds that unfair, unjust, destructive, demoralizing and uneconomic trade practices have been and are now being carried on in the operation of barber shops in the State of California, and that unfair competition exists between the individual barber shop owners and managers of this State to the extent that prices have been reduced by such unfair competition to the point where it is impossible for an average barber, although working regularly, to support and maintain reasonable safe and healthful barbering services to the public.

Such conditions constitute a menace to the health, welfare and reasonable comfort of the inhabitants of this State, and tend to the transmission of disease.

As the barber business affects the health, comfort and well-being of our citizens, and of the public which patronize the barbers of the State of California, in order to promote the public welfare, health and safety, and to prevent the transmission of disease, in view of the personal touch and contacts manifested and exercised in the barber business, and the need for well-nourished, strong and healthy persons to engage in the barber business, the barber profession is hereby declared to be a business affecting the public health, public interest and public safety.

In recent years social security, a ceiling for hours and a floor for wages, collective bargaining, pro-



hibition against unfair trade practices including sales below cost, and validation of resale price maintenance agreements, together with many other reforms have been provided for many industries and businesses, resulting in an increased standard of living for persons engaged in them and a consequent raising of the standards of service of those industries and businesses to the public in terms of competency and sanitation.

These reforms do not generally apply to barbers. Barber shops are usually very small establishments, very often owned and operated entirely by one man. Barbers do not sell a trade-marked commodity; they are not in interstate commerce.

In order then, that the State may do its part in protecting the public and in insuring a nondiscriminatory application of the recent increased movement to achieve social progress, this statute is enacted.

SEC. 2. Article 4.5, consisting of Sections 6551 to 6558, is hereby added to Chapter 6 of Division 3 of the Business and Professions Code, to read as follows:

#### *Article 4.5. Minimum Price Schedules*

6551. For the purposes of this article, the board shall have all the powers of the head of a department under Political Code Section 353.

6551.5. No witness subpoenaed at the instance of a party other than the board or one of its members, or its secretary or agents or employees, may be compensated unless the board shall certify that his testimony was material to the matter investigated.

6552. The board may adopt and enforce all rules and orders necessary to carry out the provisions of this article. Every rule or order of the board shall be posted for public inspection in the main office of the board, and a certified copy thereof shall be filed in the office of the secretary

of the board and made available for publication in the trade papers of barbers. Upon such posting, filing and publishing such rules shall be in effect and binding.

6552.5. As used in this article, "barber" means any registered barber actively engaged in the practice of barbering.

6552.7. This article and Section 6594 of this code shall not apply to barber services performed by barbers on railroad passenger trains, or to barbers services performed by students in barber schools.

6553. Any member of the board, or any employee of the board designated by the board for that purpose, shall at all reasonable hours have access to all places where barbering is being carried on, for the purpose of administering this article.

6553.5. Any member of the board, or any employee of the board designated by the board for that purpose, may inspect all books, papers, records or documents in any place within the State, for the purpose of ascertaining facts to enable the board to administer this article.

6554. The board may require the licensees to keep any of the following records :

- (a) A record of all barber work performed, and the price therefor.
- (b) A record of all the expenses incident to the operation of the barber shop.
- (c) A record of the net profits of the barber shop from month to month.
- (d) Any other records and information which the board may deem necessary for the proper enforcement of this act.

6554.5. Each licensee under this chapter shall, upon the order of the board, make and file a veri-

fied report upon such forms as the board shall require, of records which the board requires to be kept under this article, together with such other information or facts as may be pertinent and material within the scope of the purpose and intent of this article. Such report shall cover a period of time specified by order of the board.

6555. The practice and procedure of the board with respect to any investigation by the board under this article shall be in accordance with rules adopted by the board. Such rules shall provide for a reasonable notice to all persons likely to be affected by orders to be made by the board after such investigation, for opportunity to be heard either in person or by counsel, and for opportunity to introduce testimony in their behalf at a public hearing to be held for that purpose.

6556. The board may establish minimum price schedules for the various items of barber services for any city or county upon its own motion, or upon the filing of a petition with it, requesting a minimum price schedule for that city or county, signed by 75 per centum of the barbers in that city or county.

6556.4. Upon receipt of a petition under this article, the board shall investigate and ascertain those minimum prices which will enable barbers in that city or county to furnish modern and healthful services, using modern appliances and equipment, so as to minimize the danger to public health and safety incident to such services.

6556.5. In establishing a minimum price schedule the board shall consider all conditions affecting the practice of barbering in that city and county, and the relation of those conditions to the public health and safety.

6556.6. In establishing a minimum price schedule, the board shall consider the necessary costs incurred in that city or county in maintaining a

barber shop in a clean, healthful and sanitary condition.

6556.7. At the conclusion of an investigation therefor, the board may establish a reasonable and just minimum price schedule conforming to the requirements of this article.

6557. If the board, after investigation made either upon its own initiative or upon the complaint of 51 per cent of the barbers in the city or county for which the minimum price schedule is established, determines that the minimum prices so established, or any of them, are insufficient properly to provide healthful services to the public and to maintain a sanitary barber shop, or that any minimum price set creates an undue hardship on barber shop owners and operators, the board may vary or refix the minimum price for any barber service in that city or county.

6558. Any person who violates a minimum price schedule established by the board may be enjoined by a court of competent jurisdiction upon the petition of the board.

### **Article 5. *Reciprocity***

6560. Any person upon payment of the required fee, shall be granted permission to take an examination to determine his fitness to receive a certificate of registration to practice barbering if he complies with each of the following:

- (a) He is at least 18 years of age and of good moral character and temperate habits.
- (b) He has a diploma showing graduation from an eighth grade grammar school, or its equivalent as determined by an examination conducted by the board.
- (c) He has either:
  - (1) A license or certificate of registration as a practicing barber from another State or country which has substan-

tially the same requirements for licensing or registering barbers as required by this chapter.

- (2) Affidavits that he has practiced as a barber in another State or country for at least two years prior to making application in this State.

If he fails to pass the examination, he may file a new application accompanied by the required fee and take another examination. In no event will he be permitted to practice barbering until such time as he satisfactorily passes an examination and receives a certificate of registration as a registered barber.

6561. Any person, upon payment of the required fee, shall be granted permission to take an examination to determine his fitness to receive a certificate of registration as an apprentice, if he complied with each of the following:

- (a) He is at least 16½ years of age and of good moral character and temperate habits.
- (b) He has a diploma showing graduation from an eighth grade grammar school or its equivalent as determined by an examination conducted by the board.
- (c) He has either:
  - (1) A certificate of registration as an apprentice in a State or country which has substantially the same requirements for registering an apprentice as required by this chapter.
  - (2) Affidavits that he has practiced in another State or country for at least six months prior to making application in this State.

If he passes the required examination, a certificate of registration as a registered apprentice shall be issued to him and the time spent in such other State or country as apprentice shall be credited



upon the period of apprenticeship required by this chapter as a qualification to take the examination to determine his fitness to receive a certificate of registration as a registered barber.

If he fails to pass a satisfactory examination, he shall complete a further course of study of not less than 500 hours to be completed within three months with not more than eight hours in any one working day in a college of barbering approved by the board before he is eligible to file another application for an examination to determine his fitness to receive an apprentice certificate.

### **Article 6. *Posting***

6565. Every holder of a certificate of registration shall display it in a conspicuous place adjacent to or near his work chair.

The wilful failure to display a certificate of registration constitutes a misdemeanor and in addition, a cause for disciplinary action.

6566. The board shall prepare copies of the provisions of Article 9, together with any other rules and regulations or sanitary requirements for the conduct of barber shops and colleges which may be adopted by the board in aid or furtherance of the provisions of this chapter, and shall furnish to the owner or manager of each barber shop and college one copy thereof to be posted by him in a conspicuous place in the barber shop or college.

The wilful failure by any owner or manager of a barber shop to display the copy of Article 9 and the rules and regulations constitutes a violation of this chapter.

### **Article 7. *Disciplinary Proceedings***

6570. The board shall not refuse to issue or renew and shall not suspend or revoke any certificate of any person for any of the causes for disciplinary action unless the proceedings are conducted in accordance with Chapter 5 of Part 1 of Division

3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. (See Appendix I.)

6575. The board may either refuse to issue or renew, or may suspend or revoke any certificate for any of the causes for disciplinary action.

6576. Conviction of a felony constitutes a cause for disciplinary action.

6577. Malpractice or incompetency constitutes a cause for disciplinary action.

6578. Continued practice by a person knowingly having an infectious, contagious or communicable disease constitutes a cause for disciplinary action.

6579. Advertising by means of knowingly false or deceptive statements constitutes a cause for disciplinary action.

6580. Advertising, practicing or attempting to practice under another's name or another's trade name constitutes a cause for disciplinary action.

6581. Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit-forming drugs constitutes a cause for disciplinary action.

6582. Immoral conduct constitutes a cause for disciplinary action.

6583. Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentations constitutes a cause for disciplinary action.

6584. Practicing or attempting to practice by fraudulent misrepresentations constitutes a cause for disciplinary action.

6585. The use of any room or place for barbering which is also used for residential or business

purposes (except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, confectionery and such commodities as are used and sold in barber-shops), unless a substantial partition of ceiling height or of such less height as may be approved by the board separates the portion used for residential or business purpose, constitutes a cause for disciplinary action.

6586. The commission of any of the offenses referred to in Section 6550 or in Article 9 constitute a cause for disciplinary action.

6587. Employing a registered barber or registered apprentice, who fails to display his certificate of registration in a conspicuous place adjacent to or near his work chair, constitutes a cause for disciplinary action.

6588. Failure of the owner of a shop or college to keep it and all furniture, equipment, tools, utensils, floors, walls and ceilings in a clean and sanitary condition or the premises well lighted and well ventilated constitutes a cause for disciplinary action.

6589. Failure of the owner of a shop or college to have the cuspidors cleaned daily and a disinfectant solution left in them at all times constitutes a cause for disciplinary action.

6590. Failure of the owner of a shop or college to have at least two receptacles available for each chair, one for used papers and one for used towels and failure of a registered barber, apprentice or student to use one exclusively for used papers and the other for used towels constitute causes for disciplinary action.

6591. Failure to wash one's hands immediately before serving each patron constitutes a cause for disciplinary action.

6592. Failure to thoroughly rinse shaving mugs and brushes with hot water before each patron is served constitutes a cause for disciplinary action.

6593. Failure of the owner of a shop or college to provide the equipment required for sterilization by this chapter constitutes a cause for disciplinary action.

6594. A violation of any minimum price schedule established by the board under this chapter constitutes a ground for disciplinary action.

### *Article 8. Offenses Against the Chapter*

6600. Unless otherwise expressly provided, any violation of this chapter is a misdemeanor punishable upon conviction by a fine of not less than twenty-five dollars (\$25), nor more than two hundred dollars (\$200).

6600.5. Each day's violation of a minimum price schedule established by the board under this chapter constitutes a separate violation of this chapter.

SEC. 5. In enacting this act it is the intent of the Legislature that insofar as may be compatible with the protection of the public health, the board shall act only upon the petition provided for herein.

6601. Permitting any person in one's employ, supervision or control to practice as an apprentice unless that person has a certificate of registration as a registered apprentice is unlawful.

6602. Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation is unlawful.

6603. Practicing or attempting to practice by fraudulent misrepresentations is unlawful.

6604. The use of any room or place for barbering which is also used for residential or business purposes (except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, confectionery and such commodities as are used and sold in barber-shops), unless a substantial

partition of ceiling height or of such less height as may be approved by the board separates the portion used for residential or business purpose is unlawful.

6605. The wilful making of any false statement as to a material matter in any oath or affidavit, which is required by the provisions of this chapter, constitutes perjury and is punishable as provided in the Penal Code.

#### *Article 9. Other Offenses Against the Chapter*

6610. It is unlawful for any barber or apprentice to knowingly continue the practice of barbering, or for any student knowingly to continue as a student in any college while he has an infectious, contagious or communicable disease.

6611. It is unlawful to own, manage, operate or control any barber shop unless continuously hot and cold running water is provided therein.

6612. It is unlawful to own, manage, operate or control any barber college or part or portion thereof whether connected therewith or in a separate building wherein the practice of barbering is engaged in or carried on unless all entrances to the place shall display a sign indicating that the work therein is done by students exclusively.

6613. It is unlawful to own, manage, control or operate any barber shop unless a recognized sign, clearly visible at the main entrance to the shop, is displayed indicating that it is a barber shop.

6614. It is unlawful to use upon one patron a towel that has been used upon another patron unless and until the towel has been relaundersed.

6615. It is unlawful not to provide the head rest on each chair with a relaundersed towel or a sheet of clean paper for each patron.



6616. It is unlawful not to place around the patron's neck a clean strip of cotton, towel or neck band so that the haircloth does not come in contact with the neck or skin of the patron's body.

6617. It is unlawful to use in the practice of barbering, any styptic pencils, finger bowls, sponges, lump alum or powder puffs.

Possession of a styptic pencil, finger bowl, sponge, lump alum or powder puff in a barber shop is prima facie evidence that the same is being used therein in the practice of barbering.

6618. It is unlawful to use on any patron any razors, shears, scissors, tweezers, combs, rubber disks or parts of vibrators used on another patron, unless they are kept in a closed compartment and immersed in boiling water not less than 20 minutes or in a solution of not less than 5 per cent phenol (United States Pharmacopoeia), or its equivalent, or sterilized by any other method bacteriologically effective approved by the board, immediately before each use.

### **Article 10. *Revenue***

6625. Every registered barber and every registered apprentice who continues in active practice or service, shall annually on or before August 1st of each year renew his certificate of registration and pay the required fee.

Every certificate of registration, which has not been renewed during the month of August in any year, shall expire on the first day of September in that year.

6626. A registered barber or a registered apprentice whose certificate of registration has expired may have his certificate restored immediately upon payment of the required restoration fee.

6627. Any registered barber, who retires from the practice of barbering in California for not more than five years, may renew his certificate of regis-

tration upon payment of the required restoration fee.

After five years' retirement from the practice of barbering in California, he shall pay the required examination fee provided in Section 6630, and pass the barber examination.

6628. All moneys received by the board under this chapter shall be paid to the secretary of the board, who shall give a receipt for it.

At the end of each month, the secretary shall report to the State Controller the total amount of money received by him on behalf of the board from all sources, and shall at the same time deposit with the State Treasurer the entire amount of receipts.

6629. The State Treasurer shall place the money received in the State Board of Barber Examiners' Fund.

This fund shall be expended in accordance with the law for all necessary and proper expenses in carrying out the provisions of this chapter upon proper claim approved by the board.

6630. The amount of fees prescribed by this chapter is that fixed by the following schedule:

- (a) The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice barbering is ten dollars (\$10) and for the issuance of the certificate three dollars (\$3).
- (b) The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice as an apprentice is five dollars (\$5) and for the issuance of a certificate two dollars (\$2).
- (c) The fee to be paid by an applicant for an examination to determine his preliminary education is three dollars (\$3).

- (d) The fee to be paid for the renewal of a certificate of registration to practice barbering is three dollars (\$3) and for the restoration of an expired certificate five dollars (\$5).
- (e) The fee to be paid for the renewal of a certificate of registration to practice as an apprentice is two dollars (\$2) and for the restoration of an expired certificate three dollars (\$3).
- (f) The fee to be paid by an applicant to conduct a barber shop is two dollars (\$2). The fee to be paid for the annual renewal of a certificate to conduct a barber shop is two dollars (\$2).

A duplicate certificate will be issued upon the filing of a statement covering the loss of a certificate, verified by the oath of the applicant, and submitting one signed photograph, and upon payment of a fee of one dollar (\$1) for the issuance of the certificate. Each duplicate certificate shall have the word "Duplicate" stamped across the face thereof, and bear the same number as the certificate in lieu of which it is issued.

SEC. 2. Section 30014 is hereby added to Division 30 of the Business and Professions Code, to read as follows:

30014. An act entitled "An act prescribing the terms upon which licenses or certificates of registration may be issued to practitioners of barbering, creating the State Board of Barber Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," approved May 31, 1927, together with all acts amendatory thereof and supplementary thereto is hereby repealed.

## APPENDIX I

Section 6570 requires all disciplinary proceedings to be conducted in accordance with Chapter 5 of

Part 1 of Division 3 of Title 2 of the Government Code.

SECTION 1. Chapter 5, comprising Sections 11500 to 11528, inclusive, is added to Part 1 of Division 3 of Title 2 of the Government Code to read:

## CHAPTER 5. ADMINISTRATIVE PROCEDURE

11500. In this chapter unless the context or subject matter otherwise requires:

(a) "Agency" includes the State boards, commissions and officers enumerated in Section 11501 and those to which this chapter is made applicable by law, except that wherever the word "agency" alone is used the power to act may be delegated by the agency and wherever the words "agency itself" are used the power to act shall not be delegated unless the statutes relating to the particular agency authorize the delegation of the agency's power to hear and decide.

(b) "Party" includes the agency, the respondent and any person, other than an officer or an employee of the agency in his official capacity, who has been allowed to appear in the proceeding.

(c) "Respondent" includes any licensee against whom an accusation is filed pursuant to Section 11503 and any applicant for a license against whom a statement of issues is filed pursuant to Section 11504.

(d) "Hearing officer" means a hearing officer qualified under Section 11502.

(e) "Agency member" means any person who is a member of any agency enumerated in Section 11501 and includes any person who himself constitutes an agency.

11501. (a) The enumerated agencies referred to in Section 11500 are:

Board of Dental Examiners of California.

Board of Medical Examiners of the State of California.

Board of Osteopathic Examiners of the State of California.

Board of Nurse Examiners of the State of California.

State Board of Optometry.

California State Board of Pharmacy.

State Department of Public Health.

State Board of Public Health.

Board of Examiners in Veterinary Medicine.

State Board of Accountancy.

California State Board of Architectural Examiners.

State Board of Barber Examiners.

State Board of Registration for Civil Engineers.

Registrar of Contractors.

State Board of Cosmetology.

State Board of Funeral Directors and Embalmers.

Structural Pest Control Board.

Yacht and Ship Brokers Commissioner.

Director of Professional and Vocational Standards.

Secretary of State.

State Fire Marshal.

State Mineralogist.

Director of Agriculture.

Labor Commissioner.

Real Estate Commissioner.

Commissioner of Corporations.

Department of Social Welfare.

Social Welfare Board.

Department of Institutions.

Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun.

Board of Pilot Commissioners for Humboldt Bay and Bar.

Board of Pilot Commissioners for the Harbor of San Diego.

Fish and Game Commission.

State Board of Education.

State Board of Equalization.

Insurance Commissioner.

Building and Loan Commissioner.



(b) The procedure of any agency shall be conducted pursuant to the provisions of this chapter only as to those functions to which this chapter is made applicable by the statutes relating to the particular agency.

11502. (a) The Director of the Department of Professional and Vocational Standards has power to appoint a staff of hearing officers for the department as provided in Section 110.5 of the Business and Professions Code. Any agency requiring full-time hearing officers for the purposes of this act has power to appoint them for the particular agency. Each hearing officer shall have been admitted to practice law in this State for at least five years immediately preceding his appointment and shall possess any additional qualifications established by the State Personnel Board for the particular class of position involved.

(b) All persons now employed or on reemployment lists or in the military service who, pursuant to and in accordance with the terms and provisions of their civil service classifications and prior to the effective date of this act, shall have performed functions similar to those of a hearing officer in an agency may act as hearing officers in the same agency and shall not be subject to the qualifications provisions of subdivision (a).

(c) Full-time hearing officers serving pursuant to appointment under subdivision (a) shall be paid at the rate of not less than four thousand eight hundred dollars (\$4,800) per year.

11503. The accusation shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his defense. It shall specify the statutes and rules which the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such statutes and rules. The accusation

shall be verified unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.

11504. (a) Proceedings to determine whether a license should be issued or renewed shall be governed by the provisions of this chapter except that: if the proceeding is commenced by the agency, a statement of the issues to be determined shall be served as provided in Section 11505 in place of the accusation; but if the hearing is held at the request of the respondent the provisions of Sections 11505 and 11506 shall not apply, and a statement of the issues to be determined together with the notice of hearing shall be delivered or mailed to the parties as provided in Section 11509.

(b) If in any proceeding to determine whether a license should be issued or renewed the respondent fails to file a notice of defense, where one is required, or to appear at the hearing, and if the burden of proof is on the respondent to establish his right to the issuance or renewal of a license, Section 11520 shall not apply and the agency may act without taking evidence.

11505. (a) Upon the filing of the accusation the agency shall serve a copy thereof on the respondent as provided in subdivision (c). The agency may include with the accusation any information which it deems appropriate, but it shall include a post card or other form entitled Notice of Defense which, when signed by or on behalf of the respondent and returned to the agency, will acknowledge service of the accusation and constitute a notice of defense under Section 11506. The copy of the accusation shall include or be accompanied by a statement that respondent may request a hearing by filing a notice of defense as provided in Section 11506 within 15 days after service upon him of the accusation, and that failure to do so will constitute a waiver of his right to a hearing.

(b) The statement to respondent shall be substantially in the following form:

Unless a written request for a hearing signed by or on behalf of the person named as respondent in the accompanying accusation is delivered or mailed to the agency within 15 days after the accusation was personally served on you or mailed to you, [here insert name of agency] may proceed upon the accusation without a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or mailing a notice of defense as provided by Section 11506 of the Government Code to: [here insert name and address of agency].

(c) The accusation and all accompanying information may be sent to respondent by any means selected by the agency. But no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent shall have been served personally or by registered mail as provided herein, or shall have filed a notice of defense or otherwise appeared. Service may be proved in the manner authorized in civil actions. Service by registered mail shall be effective if a statute or agency rule requires respondent to file his address with the agency and to notify the agency of any change, and if a registered letter containing the accusation and accompanying material is mailed, addressed to respondent at the latest address on file with the agency.

11506. (a) Within 15 days after service upon him of the accusation the respondent may file with the agency a notice of defense in which he may:

(1) Request a hearing;

(2) Object to the accusation upon the ground that it does not state acts or omissions upon which the agency may proceed;

(3) Object to the form of the accusation on the ground that it is so indefinite or uncertain that he

can not identify the transaction or prepare his defense;

(4) Admit the accusation in whole or in part;

(5) Present new matter by way of defense.

Within the time specified respondent may file one or more notices of defense upon any or all of these grounds, but all such notices shall be filed within that period unless the agency in its discretion authorizes the filing of a later notice.

(b) The respondent shall be entitled to a hearing on the merits if he files a notice of defense, and any such notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file such notice shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in subdivision (a) (3), all objections to the form of the accusation shall be deemed waived.

(c) The notice of defense shall be in writing signed by or on behalf of the respondent and shall state his mailing address. It need not be verified or follow any particular form.

11507. At any time before the matter is submitted for decision the agency may file or permit the filing of an amended or supplemental accusation. All parties shall be notified thereof. If the amended or supplemental accusation presents new charges the agency shall afford respondent a reasonable opportunity to prepare his defense thereto, but he shall not be entitled to file a further pleading unless the agency in its discretion so orders. Any new charges shall be deemed controverted, and any objections to the amended or supplemental accusation may be made orally and shall be noted in the record.

11508. The agency shall determine the time and place of hearing. The hearing shall be held in San Francisco if the transaction occurred or the respondent resides within the First District Court of Appeal

district, in the County of Los Angeles if the transaction occurred or the respondent resides within the Second or Fourth District Court of Appeal districts, and in the County of Sacramento if the transaction occurred or the respondent resides within the Third District Court of Appeal district. Provided that the agency, if the transaction occurred in a district other than that of respondent's residence, may select the county appropriate for either district; the agency may select a different place nearer the place where the transaction occurred or the respondent resides; or the parties by agreement may select any place within the State.

11509. The agency shall deliver or mail a notice of hearing to all parties at least 10 days prior to the hearing. The hearing shall not be prior to the expiration of the time within which the respondent is entitled to file a notice of defense.

The notice to respondent shall be substantially in the following form but may include other information:

You are hereby notified that a hearing will be held before [here insert name of agency] at [here insert place of hearing] on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_, upon the charges made in the accusation served upon you. You may be present at the hearing, may be but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to [here insert appropriate office of agency].

11510. (a) Before the hearing has commenced the agency shall issue subpoenas and subpoenas duces tecum at the request of any party in accordance with the provisions of Section 1985 of the Code of Civil Procedure. After the hearing has commenced the agency itself hearing a case or a hearing officer

sitting alone may issue subpoenas and subpoenas duces tecum.

(b) The process issued pursuant to subdivision (a) shall extend to all parts of the State and shall be served in accordance with the provisions of Sections 1987 and 1988 of the Code of Civil Procedure. No witness shall be obliged to attend at a place out of the county in which he resides unless the distance be less than 100 miles from his place of residence, except that the agency, upon affidavit of any party showing that the testimony of such witness is material and necessary, may indorse on the subpoena an order requiring the attendance of such witness.

(c) All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the State or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in a superior court. Witnesses appearing pursuant to subpoena, except the parties, who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day shall be entitled in addition to fees and mileage to a per diem compensation of \$3 for expenses of subsistence for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearing. Fees, mileage and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.

11511. On verified petition of any party, an agency may order that the testimony of any material witness residing within or without the State be taken by deposition in the manner prescribed by law for depositions in civil actions. The petition shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is desired; a showing of the materiality of his testimony; a showing that the witness will be



unable or can not be compelled to attend ; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. Where the witness resides outside the State and where the agency has ordered the taking of his testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition therefor in the superior court in Sacramento County. The proceedings thereon shall be in accordance with the provisions of Section 11189 of the Government Code.

11512. (a) Every hearing in a contested case shall be presided over by a hearing officer. The agency itself shall determine whether the hearing officer is to hear the case alone or whether the agency itself is to hear the case with the hearing officer.

(b) When the agency itself hears the case the hearing officer shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law ; the agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the hearing officer. When the hearing officer alone hears a case he shall exercise all powers relating to the conduct of the hearing.

(c) A hearing officer or agency member shall voluntarily disqualify himself and withdraw from any case in which he can not accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or agency member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing can not be accorded. Where the request concerns an agency member the issue shall be determined by the other members of the agency. Where the request concerns the hearing officer the issue shall be determined by the agency itself if the agency itself hears the case with the hearing officer, otherwise the issue shall be determined by the hearing officer. No agency member

shall withdraw voluntarily or be subject to disqualification if his disqualification would prevent the existence of a quorum qualified to act in the particular case.

(d) The proceedings at the hearing shall be reported by a phonographic reporter.

11513. (a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. If respondent does not testify in his own behalf he may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

11514. (a) Evidence may be introduced by any party in affidavit form in lieu of oral testimony and shall be given the same effect as if the affiant had testified orally, provided that the opposing parties shall have the right, on request made prior to sub-

mission of the case for decision, to cross-examine the affiant. At the time the affidavit is introduced the agency shall give notice of the right of cross-examination and copies shall be delivered to the opposing parties.

(b) Prior to the hearing the agency may mail or deliver any affidavits to respondent, together with a notice that it proposes to introduce such affidavits at the hearing in lieu of oral testimony, and that unless respondent, within 10 days after such mailing or delivery, or the expiration of the time to request a hearing, whichever is later, files a request to cross-examine a particular affiant at the hearing, his right to cross-examine such affiant shall be deemed waived. If within such time respondent requests the right to cross-examine an affiant, the affidavit of that affiant may be introduced in evidence only if the right to cross-examine him is afforded at the hearing.

(c) The notice to the respondent shall be substantially in the following form:

The accompanying affidavit of [here insert name of affiant] will be introduced as evidence against you. [Here insert name of affiant] will not be called to testify orally and you will not be entitled to question him unless you notify [here insert name of agency] at [here insert address of agency] that you wish to cross-examine him. To be effective your request must be received by [here insert name of agency] on or before [here insert date].

(d) If the respondent fails to file a notice of defense or to appear at the hearing affidavits may be filed in support of the accusation and may thereupon be used as proof without any notice to respondent.

11515. In reaching a decision official notice may be taken, either before or after submission of the case for decision, of any generally accepted technical or scientific matter within the agency's special field, and of any fact which may be judicially noticed by

the courts of this State. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the agency.

11516. The agency may order amendment of the accusation after submission of the case for decision. Each party shall be given notice of the intended amendment and opportunity to show that he will be prejudiced thereby unless the case is reopened to permit the introduction of additional evidence in his behalf. If such prejudice is shown the agency shall reopen the case to permit the introduction of additional evidence.

11517. (a) If a contested case is heard before an agency itself the hearing officer who presided at the hearing shall be present during the consideration of the case and if requested, shall assist and advise the agency. Where a contested case is heard before an agency itself, no member thereof who did not hear the evidence shall vote on the decision.

(b) If a contested case is heard by a hearing officer alone, he shall prepare a proposed decision in such form that it may be adopted as the decision in the case. A copy of the proposed decision shall be filed by the agency as a public record. The agency itself may adopt the proposed decision in its entirety, or may reduce the proposed penalty and adopt the balance of the proposed decision.

(c) If the proposed decision is not adopted as provided in subdivision (b) each party shall be furnished with a copy of the proposed decision. The agency itself may decide the case upon the record, including the transcript, with or without taking additional evidence, or may refer the case

to the same or another hearing officer to take additional evidence. If the case is so assigned to a hearing officer he shall prepare a proposed decision as provided in subdivision (b) upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of such proposed decision shall be furnished to each party. The agency itself shall decide no case provided for in this subdivision without affording the parties the opportunity to present either oral or written argument before the agency itself. If additional oral evidence is introduced before the agency itself no agency member may vote unless he heard the additional oral evidence.

11518. The decision shall contain findings of fact, a determination of the issues presented and the penalty, if any. The findings may be stated in the language of the pleadings or by reference thereto. The decision shall be in writing and certified as correct by the agency. Copies of the decision shall be delivered to the parties personally or sent to them by registered mail.

11519. The decision shall become effective 30 days after it is delivered or mailed to respondent unless: a reconsideration is ordered within that time, or the agency itself orders that the decision shall become effective sooner, or a stay of execution is granted. A stay of execution may be included in the decision or if not included therein may be granted by the agency at any time before the decision becomes effective.

If respondent was required to register with any public officer, a notification of any suspension or revocation shall be sent to such officer after the decision has become effective.

11520. If the respondent fails to file a notice of defense or to appear at the hearing, the agency itself may take action based upon the respondent's express admissions or upon other evidence. Nothing herein shall be construed to deprive the respondent

of the right to make any showing by way of mitigation.

11521. (a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to respondent, or on the date set by the agency itself as the effective date of the decision if such date occurs prior to the expiration of the 30-day period. If no action is taken on a petition within the time allowed for ordering reconsideration the petition shall be deemed denied.

(b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to a hearing officer. A reconsideration assigned to a hearing officer shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself no agency member may vote unless he heard the evidence.

11522. A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.

11523. Judicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure. Except



as otherwise provided in this section any such petition shall be filed within 30 days after the last day on which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the agency. The complete record of the proceedings, or such parts thereof as are designated by the petitioner, shall be prepared by the agency and shall be delivered to petitioner, within 20 days after a request therefor by him, upon the payment of the expense of preparation and certification thereof. The complete record includes the pleadings, all notices and orders issued by the agency, any proposed decision by a hearing officer, the final decision, a transcript of all proceedings, the exhibits admitted or rejected, the written evidence and any other papers in the case. Where petitioner, within 10 days after the last day on which reconsideration can be ordered, requests the agency to prepare all or any part of the record the time within which a petition may be filed shall be extended until five days after its delivery to him. The agency may file with the court the original of any document in the record in lieu of a copy thereof.

11524. The agency may grant continuances at any stage of the proceedings.

11525. If any person in proceedings before an agency disobeys or resists any lawful order or refuses to respond to a subpoena, or refuses to take the oath of affirmation as a witness or thereafter refuses to be examined, or is guilty of misconduct during a hearing or so near the place thereof as to obstruct the proceeding, the agency shall certify the facts to the superior court in and for the county where the proceedings are held. The court shall thereupon issue an order directing the person to appear before the court and show cause why he should not be punished as for contempt. The order and a copy of the certified statement shall be served on the person. Thereafter the court shall have

jurisdiction of the matter. The same proceedings shall be had, the same penalties may be imposed and the person charged may purge himself of the contempt in the same way, as in the case of a person who has committed a contempt in the trial of a civil action before a superior court.

11526. The members of an agency qualified to vote on any question may vote by mail.

11527. Any sums authorized to be expended under this chapter by any agency shall be a legal charge against the funds of the agency.

11528. In any proceedings under this chapter any agency, agency member, secretary of an agency or hearing officer has power to administer oaths and affirmations and to certify to official acts.

## APPENDIX II

Section 1094.5 of the Code of Civil Procedure establishes method of judicial review of administrative decisions.

SECTION 1. Section 1094.5 is added to the Code of Civil Procedure, to read :

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the inferior tribunal, corporation, board or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board or officer may be filed with the petition, may be filed with respondent's points and authorities or may be ordered to be filed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, such expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction ; whether there was a fair trial ; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the

evidence; and in all other cases abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (e) of this section remanding the case to be reconsidered in the light of such evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit such evidence at the hearing on the writ without remanding the case.

(e) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(f) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, provided that no such stay shall be imposed or continued if the court is satisfied that it is against the public interest. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which such appeal is taken. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this

section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings.

## BUSINESS AND PROFESSIONS CODE

### SECTION 114

114. Notwithstanding any other provision in this code, any person holding a valid unexpired license issued by any board, commission, or bureau in the department, who enters any branch of the armed services of the United States in time of war or during a national emergency, shall not be required to renew such license at any time while exclusively engaged in such service.

A licensee, having availed himself of the provisions of this section, shall apply for the renewal of his license immediately upon re-entry into the private practice of his profession or vocation, and in no case shall application for renewal of a license be made later than one year from date of discharge from active service or return to inactive military status. The licensee applying for renewal of his license at a time more than one year from date of discharge or return to inactive military status may be subjected to re-examination or to the payment of penalties as prescribed in this code or both.

For the purposes of this section, time spent by a licensee in receiving treatment or hospitalization in any Veterans' Facility during which he is prevented from practicing his profession or vocation shall be excluded from said period of one year.

This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution, and shall, therefore, go into immediate effect. A



statement of the facts constituting such necessity is as follows:

Licensees are daily returning from the armed forces in ever increasing numbers. Many of those who are being discharged do not immediately resume practice of their professions or vocations because they need time in which to readjust themselves mentally and physically and to reestablish their homes and otherwise take care of their personal affairs. Moreover, no allowance for time required for hospitalization following discharge is now permitted.

(Added by Stats. 1945, Ch. 1195. Effective July 10, 1945.)





